



ARKANSAS JUDICIARY

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## Rule 58. Entry Of Judgment Or Decree.

Subject to the provisions of Rule 54(b), upon a general or special verdict, or upon a decision by the court granting or denying the relief sought, the court may direct the prevailing party to promptly prepare and submit, for approval by the court and opposing counsel, a form of judgment or decree which shall then be entered as the judgment or decree of the court. The court may enter its own form of judgment or decree or may enter the form prepared by the prevailing party without the consent of opposing counsel. A judgment or decree shall omit or redact confidential information as provided in Rule 5(c)(2).

Every judgment or decree shall be set forth on a separate document. A judgment or decree is effective only when so set forth and entered as provided in

Administrative Order No. 2. Entry of judgment or decree shall not be delayed for the taxing of costs.

Reporter's Notes to Rule 58: - 1. Rule 58 varies substantially from FRCP 58 and is designed to incorporate prior Arkansas procedure into a formal rule. Under the Federal Rule, the court clerk, in certain instances, has the responsibility of preparing the formal judgment. In all other instances, the court or the clerk prepares the judgment. This rule recognizes and continues the prior practice in this State of having the prevailing party prepare and submit the form of judgment or decree to the court for its approval.

2. Implicit in this rule is the right of opposing counsel to be afforded an opportunity to approve the form of judgment or decree. Where there is disagreement between the parties as to the form of the judgment or decree, the court should hold a hearing to consider whatever objections there might be. After such a hearing, the court may either enter its own form of judgment or decree; it may enter the form submitted by counsel if the same fairly represents the action of the court or jury or it may require counsel to revise the judgment or decree prepared by counsel. There was no specific statutory authority in Arkansas which governed prior practice in this area and such practice simply developed as an unwritten rule. This rule should have little or no effect on prior practice.

3. The federal practice of having the court prepare the judgment or order is more or less based upon the notion that delays will result if the preparation of judgments and decrees is left to counsel. The Committee did not consider this to be serious enough to warrant changing the longstanding practice in Arkansas of having counsel prepare judgments and decrees. The rule does provide, however, that if counsel is dilatory in the preparation of a judgment or decree, the court can take appropriate action to compel the preparation of the decree or it can prepare it itself.

4. This rule provides that a judgment or decree shall not be effective unless and until it is

entered pursuant to Rule 79(a). Thus for appeal purposes, the date of entry or filing of the judgment or decree is the effective date, as opposed to the date of rendition. *Cranna v. Long*, 225 Ark. 153, 279 S.W.2d 828 (1955); *Wilhelm v. McLaughlin*, 228 Ark. 582, 309 S.W.2d 203 (1958).

Addition to Reporter's Note, 1990 Amendment: - This housekeeping amendment replaced the reference to Rule 79(a) in the second paragraph with a reference to Administrative Order No. 2, which appears in the appendix to the Rules of Civil Procedure. Rule 79 was abolished in 1987 when the administrative order was adopted.

Addition to Reporter's Notes (1999): - The second paragraph of this rule provides that a judgment or decree "is effective only when ... set forth [on a separate document] and entered as provided in Administrative Order No. 2." As amended in 1999, Administrative Order No. 2(b) provides that a judgment, decree or order is "entered" when stamped or otherwise marked by the clerk with the time and date and the word "filed," irrespective of when it is recorded in the judgment book. When the clerk's office is not open for business, and upon an express finding of extraordinary circumstances, an order is effective immediately when signed by the judge. Such order must be filed with the clerk on the next day on which the clerk's office is open, and this filing date controls all appeal-related deadlines.

The 1999 amendment to Administrative Order No. 2(b) also requires any clerk's office with a facsimile machine to "accept facsimile transmission of a judgment, decree or order filed in such manner at the direction of the court." The faxed judgment, decree or order is effective when entered by the clerk. To ensure the permanency of official court records, the original judgment, decree or order must be substituted for the facsimile copy within 14 days of transmission, but this step does not have any bearing on the effectiveness of the faxed document or the time for taking an appeal.

Addition to Reporter's Note, 2008 Amendment: The rule has been amended to reflect Administrative Order 19's requirement that any necessary and relevant confidential information in a case record's category that includes judgments and decrees must be redacted. See Addition to Reporter's Notes, 2008 Amendment to Rule of Civil Procedure 5.

### **History Text:**

History. Amended December 10, 1990, effective February 1, 1991; Amended October 23, 2008, effective January 1, 2009.

### **Associated Court Rules:**

Rules of Civil Procedure

### **Group Title:**

VII. Judgment

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